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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/810,988

03/26/2004

Fernando Oliveira

EMC-02-119CIP1

9626

24227

7590

06/08/2006

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EXAMINER

KO, DANIEL BOKMIN

ART UNIT

PAPER NUMBER

2189

DATE MAILED: 06/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/810,988	<b>Applicant(s)</b> OLIVEIRA ET AL.	
	<b>Examiner</b> Daniel B. Ko	<b>Art Unit</b> 2189	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 March 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-27 and 29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-27 and 29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 26 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This action is responsive to the application filed on 3/26/2004. Claims 1-27 and 29 have been submitted for examination.

#### ***Specification***

The co-pending U.S. Application to related application of the disclosure is objected to because of missing U.S. Patent Application Number. Please provide U.S. Patent Application No. of all the related applications.

#### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 27 and 29 are not limited to tangible embodiments. Claims 27 and 29 includes a program product that was not a proper computer readable medium. In view of Applicant's disclosure, specification page 9, 3<sup>rd</sup> paragraph, the medium is not limited to tangible embodiments, instead being defined as including both tangible embodiments (e.g., read only-memory or any other machine readable storage medium) and intangible embodiments (e.g., transmission medium). As such, the claim is not limited to statutory subject matter and is therefore non-statutory.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-27 and 29 are rejected under 35 U.S.C. 102(e) as being anticipated by Ofek et al. (U.S. Patent 6,487,561 B1), hereinafter simply Ofek.

Regarding claims 1, 14, 27 and 29, Ofek teaches a system for managing a plurality of storage area networks including a plurality of data storage volumes and one or more hosts, the system comprising:

an intelligent multi-protocol switch (IMPS) combined with a storage and switch controller (column 9, lines 2-6; column 14, lines 25-28, lines 45-59) including at least one microprocessor (column 14, lines 12-24) and a disk array (column 3, lines 32-66; column 4, lines 66-67) for storing meta-data (column 9, lines 46-53) related to the plurality of data storage volumes such that the one or more data storage networks are managed by the controller (column 19, lines 17-52) using the meta-data and by controlling the IMPS (column 21, lines 50-67; column 22, lines 1-37).

Regarding claims 2 and 15, Ofek teaches a system, wherein execution of software running on the IMPS and the storage and switch controller forms an instance of storage area network management that is separate from a host or the plurality of data storage volumes (column 3, lines 32-66; column 19, lines 17-52).

Regarding claims 3 and 16, Ofek teaches a system, wherein the controller includes software components for interfacing with an application program interface for the IMPS (column 19, 17-52).

Regarding claims 4 and 17, Ofek teaches a system, wherein the plurality of storage area networks are represented by a plurality of virtual storage area networks (column 9, lines 2-6; column 41, lines 41-44).

Regarding claims 5 and 18, Ofek teaches a system, wherein the plurality of virtual storage area networks includes a plurality of virtual storage volumes (column 9, lines 2-6; column 41, lines 41-44).

Regarding claims 6, 10, 19, and 23, Ofek teaches a system, wherein a switch abstraction layer software on the controller is provided for managing the IMPS (column 1, lines 39-57; column 4, lines 17-21).

Regarding claims 7, 11, 20, and 24, Ofek teaches a system, wherein a software agent is provided on the IMPS for interfacing with the switch abstraction layer through an application program interface (column 1, lines 39-57; column 4, lines 17-21).

Regarding claims 8, 12, 21, and 25, Ofek teaches a system, wherein the plurality of storage area networks are represented by a plurality of virtual storage area networks (column 9, lines 2-6; column 41, lines 41-44).

Regarding claims 9, 13, 22, and 26, Ofek teaches a system, wherein the plurality of virtual storage area networks includes a plurality of virtual storage volumes (column 9, lines 2-6; column 41, lines 41-44).

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**Conclusion**

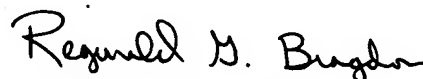
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel B. Ko whose telephone number is 571-272-8194.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Reginald G. Bragdon can be reached on 571-272-4204. The fax phone number for the organization where this application or proceeding is assigned is 703-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Daniel B. Ko  
AU 2189



REGINALD G. BRAGDON  
PRIMARY EXAMINER